

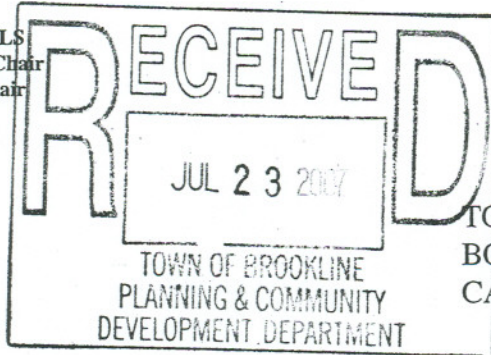


Town of Brookline

Massachusetts

BOARD OF APPEALS
Diane R. Gordon, Co-Chair
Harry Miller, Co-Chair
Bailey S. Silbert

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Patrick J. Ward, Secretary



TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. BOA 070035

Petitioner, 156 LLC, applied for modification of Board of Appeals case #050058 and #060016 to increase the number of units in his project at 156-160 St. Paul Street and 76-78 Sewall Avenue. On May 24, 2007, the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed June 21, 2007 at 7:15 p.m. in the Conference Room on the second floor of the Main Library as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published May 31 and June 7, 2007 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **156 LLC**
Location of Premises: **156 ST. PAUL ST BRKL**

Date of Hearing: 06/21/2007

Time of Hearing: 07:15 p.m.

Place of Hearing: Library Conference Room

A public hearing will be held for a modification of Board of Appeals Case #050058 and #060016.

The modification is to increase the number of units by two (2) from the approved thirty-eight (38) units to forty (40) units.

Of the Zoning By-Law to **Modify Board of Appeals Case #050058 dated 3/17/06 and Case #060016 dated 6/13/06 at 156 ST. PAUL ST BRKL.**

Said Premise located in a M 1.5 District and Coolidge Corner IPOD.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar

at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

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At the time and place specified in the notice, a public hearing was held by this Board. Present at the hearing was Chair, Diane Gordon and Board members Larry Kaplan and Jesse Geller. Ron Simons, principal of 156 LLC, accompanied by his son, David, presented the case before the Board.

Mr. Simons stated this was a request to modify the approved project to increase the total number of units from 38 to 40. Previously, the breakdown of units was as follows: 16 units in a new building, 20 units in the existing 156 St. Paul Street building, and 2 units in the building at 76-78 Sewall Avenue, known as the Shannon McCormack House. He said the approved plans for the underground garage beneath the development indicated parking spaces for 80 vehicles. Mr. Simons said he would like to

increase the number of units in the development but keep the overall number of bedrooms the same. The approved plans called for two three-bedroom units in the Shannon House and two two-bedroom duplex units in a portion of the new building at 150 St. Paul Street. He would like to change the Shannon House configuration to three two-bedroom units and the configuration of the duplex units to four one-bedroom units; this would increase the number of units by three. Mr. Simons said he would also like to combine two two-bedroom units (#305 and #405) into one four-bedroom unit, bringing the overall number of units in the entire project to 40.

The Chair then asked whether anyone wished to speak in favor or in opposition to the proposal. Myra Trachtenberg, of 45 Longwood Avenue, asked about pick-up and drop-off of handicapped persons at the site. Mr. Simons explained the procedure.

Assistant Director for Regulatory Planning, Polly Selkoe, then described the parking analysis and proposal for the board.

	Number of Units	Parking Required per Unit	Total Parking Required	Total Parking Provided
Previously Approved Plan	38	n/a	78	80
1 and 2 BD units	30	2 spaces	60	--
Units with more than 2 BD	8	2.3 spaces	18.4	--
Modification Requested	40	n/a	81	81
1 and 2 BD units	36	2 spaces	72	--
Units with more than 2 BD	4	2.3 spaces	9.2	--

Ms. Selkoe said that the applicant has provided a garage plan indicating 81 parking spaces (38 compact), which would comply with what is required under the Zoning By-law. Regarding affordable housing, the applicant is still required to provide at least three affordable units. The applicant has

stated he will provide the three two-bedroom affordable units previously approved as part of this development. Finally, the applicant maintains there will be no exterior changes in the buildings' facades as part of this modification, nor will there be an increase in square footage. Therefore, no additional zoning relief is needed due to this requested modification. Ms. Selkoe said that the Planning Board is not opposed to the modification request to increase the number of dwelling units from 38 units to 40. The required number of parking spaces will be provided (81 spaces) and the affordable housing requirement of three units is unchanged. Therefore, the Planning Board recommended approval of the garage and floor plans by Nunes-Trabucco Architects dated 6/11/07 (A1.1-A1.4) and 2/9/07 (A1.5-A1.7), subject to the conditions of the previous Board of Appeals decision, case #060016 (dated 6/13/06), as follows:

1. Prior to the issuance of a building permit, final design of facades, rooftop details, colors, materials, and finished facing of the existing courtyard retaining walls shall be subject to the review and approval of the Planning Board. The final façade details for the Shannon House shall be subject to the review and approval of the Planning Board, after input from the Preservation Commission staff.
2. Prior to the issuance of a building permit, a final landscaping plan, including streetscape improvements, fencing, mechanical and dumpster equipment location, exterior lighting, two benches at the entrance to the Sewall Avenue walkway, and the designation of the patio/lawn area and walkway as open to the public, stamped by a registered landscape architect, shall be subject to the review and approval of the Planning Board.
3. Pursuant to the provisions of Section 4.08 Affordable Housing Requirements of the Zoning By-law, the petitioner shall:
 - a. provide three two-bedroom affordable units, consistent with the locations and square footages listed in the Affordable Housing Plan dated January 5, 2006;
 - b. two units shall qualify as low and moderate income housing under the Comprehensive Permit Law (Chapter 40B), including that they shall be sold to households with incomes less than or equal to 80 percent of area median income;
 - c. one unit shall be sold to a household with incomes less than or equal to 100 percent of area median income;

- d. each affordable unit shall be sold with the exclusive use of one parking space;
 - e. proposed deviations, if any, of affordable units from market rate units with respect to floor plans, interior finishes or appliances shall be submitted to the Director of Planning and Community Development for prior approval;
 - f. no building permit shall be issued until the applicant has submitted, and the Director of Planning and Community Development with the advice of the Housing Advisory Board has approved, a Revised Affordable Housing Plan which shall include a final schedule of units and reference to specific floor plans, which Plan shall be legally binding as part of this special permit;
 - g. no certificate of occupancy shall be issued for any market rate unit until (i.) the Town has approved a marketing and selection plan for the affordable units which provides local priorities, initial sales prices for the affordable units, and condominium documents, consistent with the *Affordable Housing Guidelines for Developers of Condominium Housing in Accordance with Section 4.08 of the Brookline Zoning By-law* (approved by the Planning Board on September 18, 2003) and (ii.) all affordable units have obtained a certificate of occupancy;
 - h. affordable units shall be sold subject to a restrictive covenant to the Town of Brookline permanently controlling the resale price and process for such units.
4. Prior to the issuance of a building permit, a construction management plan, including parking locations for construction vehicles and rodent and dust control, shall be submitted for review and approval by the Transportation Director, and an approved copy submitted to the Planning and Community Development Department.
 5. Prior to the issuance of a building permit, a final traffic and parking management plan, including a warning device at the driveway exit and the prohibition of left hand turns from the garage onto St. Paul Street during evening rush hours shall be submitted and subject to the review and approval of the Transportation Director, with a copy of the approved plan to the Planning and Community Development Department.
 6. Two temporary construction and/or development signs, not to exceed 20 s.f., shall be allowed during the construction and initial sales period, with the design and colors of the sign subject to the review and approval of the Chief Planner of the Planning and Community Development Department.
 7. The location of the foundation of the new building shall be certified by a registered professional engineer or land surveyor to be in accordance with the approved site plan, prior to issuance of a building permit for the remainder of the building.
 8. Prior to the issuance of any occupancy permits, complete as-built plans shall be prepared and

certified by a registered professional engineer and/or registered architect to be in conformance with the approved plans and filed with the Building Commissioner.

9. Prior to the issuance of a Certificate of Occupancy all landscaping and street trees on the site shall be planted subject to the review and approval of the Chief Planner of the Planning and Community Development Department.
10. Prior to the issuance of the Certificate of Occupancy all right of way improvements and locations of street trees shall be subject to the review and approval of the Director of Public Works.
11. Prior to the issuance of the Certificate of Occupancy, a \$25,000 contribution shall be made to the Town's Public Works Department for traffic mitigation.
12. Prior to the issuance of the Certificate of Occupancy, a \$25,000 contribution shall be made to the Town's Park and Recreation Department for maintenance of the Minot Rose Garden on St. Paul Street.
13. The Condominium Association documents shall include language that the patio/lawn and walkway area are open to the public and require appropriate signage to that effect.
14. Prior to the submission of construction drawings to the Building Commissioner for purposes of obtaining a building permit, the applicant shall submit to the Chief Planner of the Planning and Community Development Department for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor, including fencing, lighting, and location and screening of utilities; and 2) building elevations and floor plans stamped and signed by a registered architect.

The Chair called on James Nickerson, Building Commissioner. Mr. Nickerson said that the Building Department had no objection to the proposal.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant the Petitioner's request to modify case # 050058 and #060016 to increase the number of dwelling units from thirty-eight (38) to forty (40). The Board further finds that the modification will not be more detrimental to the neighborhood than the existing conditions. The proposed modification will not have any effect on traffic nor will it cause a nuisance or serious hazard to vehicles or pedestrians. The Board further makes the following findings pursuant to **Section 9.05**:

- a. The specific site is an appropriate location for such a use, structure, or condition.

- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Accordingly, the Board unanimously grants the Petitioner's request for modification to Case #050058 and #060016 to increase the number of dwelling units from thirty-eight (38) to forty (40), subject to the following conditions:

1. Prior to the issuance of a building permit, final design of facades, rooftop details, colors, materials, and finished facing of the existing courtyard retaining walls shall be subject to the review and approval of the Planning Board. The final façade details for the Shannon House shall be subject to the review and approval of the Planning Board, after input from the Preservation Commission staff.
2. Prior to the issuance of a building permit, a final landscaping plan, including streetscape improvements, fencing, mechanical and dumpster equipment location, exterior lighting, two benches at the entrance to the Sewall Avenue walkway, and the designation of the patio/lawn area and walkway as open to the public, stamped by a registered landscape architect, shall be subject to the review and approval of the Planning Board.
3. Pursuant to the provisions of Section 4.08 Affordable Housing Requirements of the Zoning By-law, the petitioner shall:
 - a. provide three two-bedroom affordable units, consistent with the locations and square footages listed in the Affordable Housing Plan dated January 5, 2006;
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 - c. one unit shall be sold to a household with incomes less than or equal to 100 percent of area median income;
 - d. each affordable unit shall be sold with the exclusive use of one parking space;

- e. proposed deviations, if any, of affordable units from market rate units with respect to floor plans, interior finishes or appliances shall be submitted to the Director of Planning and Community Development for prior approval;
 - f. no building permit shall be issued until the applicant has submitted, and the Director of Planning and Community Development with the advice of the Housing Advisory Board has approved, a Revised Affordable Housing Plan which shall include a final schedule of units and reference to specific floor plans, which Plan shall be legally binding as part of this special permit;
 - g. no certificate of occupancy shall be issued for any market rate unit until (i.) the Town has approved a marketing and selection plan for the affordable units which provides local priorities, initial sales prices for the affordable units, and condominium documents, consistent with the *Affordable Housing Guidelines for Developers of Condominium Housing in Accordance with Section 4.08 of the Brookline Zoning By-law* (approved by the Planning Board on September 18, 2003) and (ii.) all affordable units have obtained a certificate of occupancy;
 - h. affordable units shall be sold subject to a restrictive covenant to the Town of Brookline permanently controlling the resale price and process for such units.
4. Prior to the issuance of a building permit, a construction management plan, including parking locations for construction vehicles and rodent and dust control, shall be submitted for review and approval by the Transportation Director, and an approved copy submitted to the Planning and Community Development Department.
 5. Prior to the issuance of a building permit, a final traffic and parking management plan, including a warning device at the driveway exit and the prohibition of left hand turns from the garage onto St. Paul Street during evening rush hours shall be submitted and subject to the review and approval of the Transportation Director, with a copy of the approved plan to the Planning and Community Development Department.
 6. Two temporary construction and/or development signs, not to exceed 20 s.f., shall be allowed during the construction and initial sales period, with the design and colors of the sign subject to the review and approval of the Chief Planner of the Planning and Community Development Department.
 7. The location of the foundation of the new building shall be certified by a registered professional engineer or land surveyor to be in accordance with the approved site plan, prior to issuance of a building permit for the remainder of the building.
 8. Prior to the issuance of any occupancy permits, complete as-built plans shall be prepared and certified by a registered professional engineer and/or registered architect to be in conformance with the approved plans and filed with the Building Commissioner.

9. Prior to the issuance of a Certificate of Occupancy all landscaping and street trees on the site shall be planted subject to the review and approval of the Chief Planner of the Planning and Community Development Department.
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Unanimous Decision of
The Board of Appeals

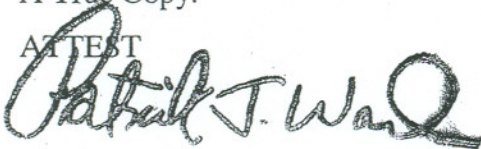


Diane R. Gordon

Filing Date: July 20, 2007

A True Copy:

ATTEST



Patrick J. Ward

Clerk

Board of Appeals